

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Amendment of Section 73.202(b),	)	MB Docket No. 03-44
Table of Allotments,	)	RM-10650
FM Broadcast Stations.	)	RM-11396
(Water Mill and Noyack, New York)	)	
	)	

**ORDER**

**Adopted: August 28, 2014**

**Released: August 29, 2014**

By the Chief, Audio Division, Media Bureau:

1. The Audio Division has before it: (1) an Application for Review of the *Reconsideration Decision*<sup>1</sup> in this proceeding filed October 9, 2008, by Sacred Heart University (“SHU”), licensee of noncommercial educational (“NCE”) Station WSUF(FM), Noyack, New York, and FM translator W277AB, Noyack, New York; (2) a Withdrawal of Application for Review filed August 5, 2014, by SHU; and (3) various related pleadings.<sup>2</sup>

**I. BACKGROUND**

2. SHU filed Comments and Counterproposal in response to the *Notice of Proposed Rule Making* in this proceeding<sup>3</sup> that proposed the allotment of Channel 277A at Water Mill, New York. SHU suggested that Channel 233A be allotted in lieu of Channel 233A to protect its translator W277AB at Noyack. Alternatively, SHU proposed the allotment of Channel \*277A at Noyack, the reservation of this channel for NCE use, and the modification of SHU’s license for Station WSUF(FM) from Channel 210B1 to Channel \*277A at Noyack in order to improve its coverage area.

3. In the *Report and Order*,<sup>4</sup> we allotted Channel 233A at Water Mill as an alternate channel but did not otherwise address SHU’s Counterproposal. In the *Reconsideration Decision*, we deleted the allotment of Channel 233A at Water Mill because of a procedural defect in the Petition for Rule Making and supporting documents. We also dismissed SHU’s Counterproposal as a prohibited alternative proposal. Finally, we announced a new Downgrade Policy that requires nonadjacent lower class modifications to be subjected to the solicitation of other expressions of interest and an equivalent alternative channel be available for those interests.<sup>5</sup>

<sup>1</sup> *Water Mill and Noyack, New York*, Memorandum Opinion and Order, 23 FCC Rcd 12790 (MB 2008) (“*Reconsideration Decision*”).

<sup>2</sup> These pleadings include: (1) a Motion to Accept Supplement and a Supplement filed November 21, 2008, by SHU; and (2) a Motion to Accept Second Supplement and Second Supplement to Application for Review filed May 28, 2009, by SHU.

<sup>3</sup> *Water Mill, New York*, Notice of Proposed Rule Making, 18 FCC Rcd 2387 (MB 2003).

<sup>4</sup> *Water Mill and Noyack, New York*, Report and Order, 21 FCC Rcd 1150 (MB 2006).

<sup>5</sup> See *Reconsideration Decision*, 23 FCC Rcd at 12794-96 (paras. 14-17).

4. SHU requests approval for the withdrawal of its Application for Review. SHU states that, due to the length of time that the proceeding has been pending, circumstances have changed with respect to SHU's plans. SHU also submits an Affidavit, certifying that it has not received nor will receive any consideration in exchange for this withdrawal.

## II. DISCUSSION

5. We believe that it would serve the public interest to approve the withdrawal of SHU's Application for Review because it will resolve a proceeding that has been pending for ten years.<sup>6</sup> We also find that the withdrawal complies with Section 1.420(j)<sup>7</sup> because SHU will not receive any monetary or other consideration in exchange for its withdrawal.

6. ACCORDINGLY, IT IS ORDERED, that the Withdrawal of Application for Review filed by Sacred Heart University IS GRANTED.

FEDERAL COMMUNICATIONS COMMISSION

Peter H. Doyle  
Chief, Audio Division  
Media Bureau

---

<sup>6</sup> See, e.g., *Stanley Group Broadcasting, Inc.*, Order, 4 FCC Rcd 8031, 8032 (OGC 1989) (approving on delegated authority a settlement agreement and dismissal of Application for Review); *Family Broadcasting, Inc.*, Order to Show Cause, 25 FCC Rcd 7591, 7593 (2010) (noting staff dismissal of Application for Review under delegated authority).

<sup>7</sup> 47 C.F.R. § 1.420(j).